

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROCK VILLANUEVA, <i>individually and on behalf of all others</i>	:
<i>similarly situated,</i>	:
	:
Plaintiff,	:
	:
-v-	:
	:
GIGACLOUD TECHNOLOGY INC et al.,	:
	:
Defendants.	:
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	:
THOMAS J. KINNALLY, <i>individually and on behalf of all</i>	:
<i>others similarly situated,</i>	:
	:
Plaintiff,	:
	:
-v-	:
	:
GIGACLOUD TECHNOLOGY INC et al.,	:
	:
Defendants.	:
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23-CV-10645 (JMF)

23-CV-10684 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On October 4, 2023, Plaintiff Kinnally filed a class action lawsuit (the “Kinnally Action”) in the Central District of California on behalf of purchasers of GigaCloud securities between August 18, 2022 and September 27, 2023. *See* 23-CV-8381 (C.D. Cal.). On October 30, 2023, Plaintiff Villanueva filed a separate class action lawsuit (the “Villanueva Action”) in the same court on behalf of the same class. *See* 23-CV-9134 (C.D. Cal.). Both complaints allege violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (“1934 Act”) and Rule 10b-5 promulgated thereunder. On December 6, 2023, the Villanueva Action was

transferred to the Southern District of New York and assigned to this Court. *See* 23-CV-10645, ECF No. 14. The Kinnally Action followed suit shortly thereafter, on December 7, 2023. *See* 23-CV-10684, ECF Nos. 13.

As explained in the Court’s December 7, 2023 Order in the Villanueva Action, *see* 23-CV-10645, ECF No. 15, Section 78u-4(a)(3)(A) of the Private Securities Litigation Reform Act (“PSLRA”), 15 U.S.C. § 78u-4(a)(3)(A), requires that within twenty days of the filing of the complaint, Plaintiff shall “cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class . . . of the pendency of the action, the claims asserted therein, and the purported class period.” 15 U.S.C. § 78u-4(a)(3)(A)(i). The PSLRA also provides that “not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.” *Id.* In addition, the Act requires that not later than 90 days after the date on which notice is published, the Court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the Court determines to be most capable of adequately representing the interests of class members. *See id.* § 78u-4(a)(3)(B)(i). In the event that more than one action on behalf of a class asserting substantially the same claim or claims has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the Court shall not appoint a lead plaintiff until after a decision on the motion to consolidate is rendered. *See id.* § 78u-4(a)(3)(B)(ii).

Plaintiff’s counsel notified the Court that the required notice was published on **October 5, 2023**, in the Kinnally Action, and on **October 30, 2023**, in the Villanueva Action. 23-CV-10645, ECF No. 22, at 1. The PSLRA provides that “[i]f more than one action on behalf of a

class asserting substantially the same claim or claims arising under this chapter is filed, only the plaintiff or plaintiffs in the first filed action shall be required to cause notice to be published[.]” 15 U.S.C. § 78u-4(a)(3)(A)(ii). Accordingly, the notice in the Villanueva Action advised members of the putative class that investors had until **December 4, 2023**, to seek appointment as lead plaintiff. On December 4, 2023, before the Kinnally and Villanueva Actions were transferred to this District from the Central District of California, three movants each filed motions for consolidation of the two cases, their respective appointments as lead plaintiffs, and appointment of their respective counsel as lead counsel.

In view of the Actions’ subsequent transfer to this District, it is hereby ORDERED that the deadline to seek appointment as lead plaintiff is hereby extended, *nunc pro tunc*, to **December 22, 2023**. All movants who filed motions on the Actions’ dockets in the Central District of California shall re-file their motions on this District’s dockets for 23-CV-10645 and 23-CV-10684. **To the extent any prior motion relied on Ninth Circuit law, the movant shall revise the motion to focus on the law of the Second Circuit.** Any opposition to such motions shall be served and filed by **January 10, 2024**. No reply may be filed without prior leave of Court.

Finally, it is hereby ORDERED that a conference shall be held on **January 25, 2024**, at **4:00 p.m.** in **Courtroom 1105** of the Thurgood Marshall Courthouse, 40 Centre Street, New York, New York to consider any motions for appointment of lead plaintiff and lead counsel and for consolidation.

If an amended complaint or a related case is filed prior to appointment of a lead plaintiff, Plaintiff’s counsel shall, **within one week**, submit a letter to the Court identifying any differences between the allegations in the new complaint(s) and the allegations in the original

complaint (including but not limited to any differences in the claims asserted and the relevant class periods) and showing cause why the Court should not order republication of notice under the PSLRA and set a new deadline for the filing of motions for appointment. *See, e.g., Hachem v. Gen. Elec. Inc.*, No. 17-CV-8457 (JMF), 2018 WL 1779345 (S.D.N.Y. Apr. 11, 2018).

It is further ORDERED that the named plaintiffs in these actions shall **promptly** serve a copy of this Order on each of the defendants and on any other party that filed a lead plaintiff motion in the Central District of California and, no later than **December 18, 2023**, shall docket proof of such service.

SO ORDERED.

Dated: December 15, 2023
New York, New York



JESSE M. FURMAN
United States District Judge